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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/677,232	10/03/2003	Shigeki Fujihara	FUJI3002/EM	8610

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EXAMINER

LAVINDER, JACK W

ART UNIT PAPER NUMBER

3677

DATE MAILED: 07/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/677,232

Applicant(s)

FUJIHARA ET AL.

Examiner

Jack W. Lavinder

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 May 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,4,6 and 9-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4,6 and 9-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 4, 6, 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zepell, 3344484 in view of Ganz, 3920337.

Zepell discloses

- A fixing section (53, 56, 57) having
  - Fixing piece sections (56) formed with engaging sections, i.e., the protrusion extending from 56 and engaging the holding sections (holes in the clip set section 45)
- A clip set section (45, figure 4) formed on the outside of a cylinder (66) and protruding from the cylinder in such a way that a part thereof becomes a fixing reference point, i.e., the back portion of the clip set section is a fixing reference point in that the fixing section flange (62) engages the back portion to position the engaging sections into the proper position for engaging the holding sections (figures 1, 2, 5)

Zepell fails to disclose engaging sections being holes and holding sections being protrusions. Zepell actually discloses the opposite, i.e., engaging sections being

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protrusions and holding sections being holes. Zepell also fails to disclose the upper half of the holding sections being formed with a taper.

Ganz discloses engaging sections (54) being holes and holding sections (27, 28) being protrusions with the upper half of the protrusion forming a taper (29) to improve the ease of inserting the fixing section over the clip set section and the lower surface of the protrusions being stoppers to prevent the removal of the clip from the cylinder.

It would have been obvious to a person having ordinary skill in the art to reverse the holes and protrusions in Zepell as taught by Ganz, to provide tapered upper half sections on the holding sections to improve the ease of inserting the clip over the clip set section.

Regarding claim 4, Ganz discloses engaging sections (54) being holes and holding sections (27, 28) being protrusions with the upper half of the protrusion forming a taper (29) to improve the ease of inserting the fixing section over the clip set section and the lower surface of the protrusions being stoppers to prevent the removal of the clip from the cylinder.

Regarding claims 6 and 9, Zepell discloses anti-lateral vibration means (57).

3. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zepell in view of Ganz and further in view of Saitou, 6682245.

Regarding claims 10 and 11, Zepell in view of Ganz fails to disclose engaging sections formed as concaved outward notches and the holding sections as protrusions adapted at least to a concave inner contour shape of the engaging sections.

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Saitou discloses that it is old and well known to use a concaved notch with a concaved protrusion (20c, 12g) to help secure the clip to the pen. The means to fasten the clip to the clip set section in Saitou is an alternative design choice to the hole and protrusion fastening system in Zepell and Ganz. These are considered to be design equivalents of one another because they both perform the intended function of securely holding the clip to the clip set section, equally as well as the other. Furthermore, the specification fails to show any criticality as to the use of this specific type of protrusion and recess securing device.

It would have been obvious design alternative to a person having ordinary skill in the art to use a concave recess and protrusion securing means, as taught by Saitou, in place of Zepell's and Ganz's hole and protrusion securing means for engaging the clip set section to the clip for the reason indicated above.

Regarding claim 11, Saitou was previously applied to change the hole into an outwardly shaped protrusion having a concave inner area that would engage the outwardly protruding holding means. Claim 11 now calls for the engaging section to protrude inwardly to mate with an inwardly extending recess adapted to engage the outer contour of the engaging section. The later is exactly the embodiment shown in Saitou. The above reasons for obviousness stated for claim 10 also apply here.

### ***Response to Arguments***

4. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

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5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack W. Lavinder whose telephone number is 571-272-7119. The examiner can normally be reached on Mon-Friday, 9-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jack W Lavinder  
Primary Examiner  
Art Unit 3677

7/20/05